IN THE HIGH COURT OF UTTARANCHAL

AT NAINITAL

Writ Petition No. 723 of 2005 (S/S)

1. Smt. Lalita Pandey
W/o Shri Vinod Pandey
R/o Tallital Bazar Bhimtal,
Post Office – Bhimtal,
District – Nainital

2. Smt. Manju Pokhariya
W/o Shri Rajendra Singh Pokhariya
R/o Thapaliya Mahragaon,
P.O. – Naukuchiyatal,
District – Nainital
Presently R/o Tehsil Quarter,
Tehsil Parishar Haldwani,
District – Nainital ……Petitioners

Versus

1. State of Uttaranchal
through its Chief Secretary, Dehradun

2. Commissioner, Kumaon Division
Nainital

3. Commissioner / Secretary, Food and Civil Supplies,
Govt. of Uttaranchal, Dehradun

4. M/s Kumaon Mandal Vikas Nigam Ltd.,
through its Managing Director, Oak Park,
Nainital, District – Nainital …..Respondents

Sri I.P. Gairola, learned counsel for the petitioners.

Hon'ble B.C. Kandpal, J.

By means of this Writ Petition, the petitioners have sought a writ in the nature mandamus commanding the respondents to appoint the petitioners as Class III employees and to pay back wages w.e.f. 01.04.1996 till the petitioners are absorbed.

Brief facts as narrated in the writ petition are that the petitioners were appointed as Assembler in M/s Kumaon Television Ltd. and were till 31.03.1996 when they were

retrenched. M/s Kumaon Television Ltd. took a policy decision to wind up the Company. In consequence of the decision of winding up of the Company, the employees of the M/s Kumaon Television Ltd. were to be absorbed in different Government Departments, Corporations etc. by granting the age relaxation for the appointment.

The Government order dated 26.02.1996 was issued for absorption of the retrenched employees of the Company.

It is alleged by the petitioners that as per the Government order they have not been given suitable appointment instead the respondents have started recruitment process for filing up of the existing vacancy. Not only that it is also alleged that other similarly situated employees have been given jobs in pursuance of aforesaid Government order and letter dated 25.04.1996 which was also issued by the Principal Secretary, Uttarakhand Vikas Vibhag, Government of U.P.

Heard learned counsel for the petitioners and perused the record.

The short question for consideration for this court is whether the petitioners are entitled to be given appointment on suitable post in compliance of the Government order dated 30.12.1995 and 26.02.1996 with full salary w.e.f. 1st April, 1996 or not.

Admittedly, the petitioner was holding the post of the Assembler. Para 3 of the Government Order No. 257 dated 26.02.1996 issued by the Uttarakhand Vikas Vibagh reads as under :

''सरकारी सेवा / निगमों / उपक्रमों की सेवा में भर्ती हेतु निर्धारित न्यूनतम षैक्षिक अर्हता तथा अनुभव विपयक षर्ते पूरा करने वाले टेलीट्रानिक्स / कुमायूँ टेलीविजन लिमिटेड कर्मचारी / अधिकारी ही उक्त सेवायोजन हेतु पात्र होगे । यदि ऐसे कर्मचारी टेलीट्रानिक्स/कुमायूँ ठेलीविजन लिमिटेड में ऐसे पद पर नियुक्त हुए थे जिनका कर्तव्य तथा उत्तरदायित्व उस पद के समान है, जिस

पद के लिए निर्धारित षैक्षिक योग्यता रखते थे, तो यह समझा जायेगा कि वे वर्तमान पद के लिए जिसके लिए अब वे अभ्यर्थी है, अपनी नियुक्ति के सबब उपरोक्त पद के लिए निर्धारित ष्षैक्षिक अर्हता पूर्ण करते हैं।श

So, in view of aforesaid para, it can very well be said that the petitioners fulfilled the qualification for the appointment / absorption because entire Government order is to be read as a whole wherein it has been mentioned that the retrenched employee will be given appointment in accordance with the law of the Service Rule of 1991.

In view of the aforesaid Government Order, it was incumbent upon the respondents authority to provide suitable employment to the all wind up corporations, i.e. M/s Kumaon Television Ltd.

The petitioners have filed certain copies of the judgment passed by this court earlier in the matter of other retrenched employees of the Teletronic Limited as well as Kumaon Television Limited and it reveals from the perusal of those judgments that this court had allowed the petitioners filed by other retrenched employees and directed the respondents to provide the job to the petitioners in compliance of the Government Order stated above.

Accordingly, the writ petition is allowed. The respondents are directed to give appointment to the petitioners on suitable post in compliance of the Government Order dated 30.12.1995 and 26.02.1996 with full salary w.e.f. 01.04.1996 within a period of three months.

No order as to costs.

With these observations, the writ petition is finally disposed of.

(B.C. Kandpal, J.)

13th June, 2005
Shiv